

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

MARK DELANE WARD,

Petitioner,

v.

CIVIL ACTION NO. 3:13-22243

LARRY CRAWFORD, Administrator,  
Western Regional Jail,

Respondent.

**ORDER**

Currently pending before this Court is a *pro se* Petition for a Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254. This action was referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendations for disposition pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that this Court dismiss this action. Petitioner objects to the Magistrate Judge's findings and recommendations.

As explained by the Magistrate Judge, this action is one of five proceedings Petitioner has filed in this Court challenging many of the same issues.<sup>1</sup> In the Proposed Findings

---

<sup>1</sup>The other actions filed by Petitioner were resolved as follows: *Ward v. Clark*, Civ. Act. No. 3:12-07928, 2013 WL 4478021 (S.D. W. Va. Apr. 9, 2013) (adopting the Magistrate Judge's Proposed Findings and Recommendations, over Petitioner's objections, and dismissing Petition filed pursuant to 28 U.S.C. § 2241); *Ward v. Clark*, Civ. Act. No. 3:12-07283, 2013 WL 1437615 (S.D. W. Va. Apr. 9, 2013) (adopting the Magistrate Judge's Proposed Findings and Recommendations, over Petitioner's objections, and dismissing Petition filed pursuant to 28 U.S.C. § 2241); *Ward v. Clark*, Civ. Act. No. 3:12-06386 (dismissing action at Petitioner's request); *Ward v. Plymale*, Civ. Act. No. 3:12-6186 (adopting the Magistrate Judge's Proposed Findings and Recommendations, over Plaintiff's objections, and denying Plaintiff's Complaint

and Recommendations entered in the present case, the Magistrate Judge explains to Petitioner that, as a pretrial detainee, he is not entitled to relief under 28 U.S.C. § 2254. *Prop. Find. & Rec.*, at 4, ECF No. 6. In addition, the Magistrate Judge finds that, even if this action is recharacterized as a petition under 28 U.S.C. § 2241, *Younger* abstention is appropriate for the same reasons as stated by this Court in Petitioner's other § 2241 actions. *See Younger v. Harris*, 401 U.S. 37 (1971); *Ward v. Clark*, Civ. Act. No. 3:12-7928, 2013 WL 4478021, *Ward v. Clark*, Civ. Act. No. 3:12-07283, 2013 WL 1437615. Furthermore, for the same reasons as stated in the other actions, the Magistrate Judge reiterates that Petitioner's arguments with regard to his preliminary hearing, the grand jury indictment, and the grand jury proceedings are without merit.

In his objections, Petitioner reargues that he had a "constitutionally mandated" right to a preliminary hearing and that the charge before the state court magistrate judge should have been dismissed before he was indicted. Next, Petitioner asserts the Court should not abstain because it has jurisdiction over his Petition. Upon de novo review, and for the reasons fully set forth by the Magistrate Judge and by this Court in Petitioner's other actions, the Court finds these objections are completely without merit. Thus, the Court accepts and incorporates herein the findings and recommendations of the Magistrate Judge, **DENIES** the Petition for a Writ of Habeas Corpus (ECF No. 1), and **DISMISSES** this action **WITH PREJUDICE** from the docket of the Court.

Last week, Petitioner also filed a Motion for Expedited Relief in which he asks this Court to direct the state court judge to release him on the same grounds as raised in this Petition. As the Court has dismissed this Petition, the Court also **DENIES WITH PREJUDICE** Petitioner's Motion for Expedited Relief. ECF No. 8.

The Court additionally has considered whether to grant a certificate of appealability. *See* 28 U.S.C. § 2253(c). A certificate will not be granted unless there is "a substantial showing of the denial of a constitutional right." *Id.* at § 2253(c)(2). The standard is satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this Court is debatable or wrong and that any dispositive procedural ruling is likewise debatable. *Miller-El v. Cockrell*, 537 U.S. 322, 336-38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*, 252 F.3d 676, 683-84 (4th Cir. 2001). The Court concludes that the governing standard is not satisfied in this instance. Accordingly, the Court **DENIES** a certificate of appealability.

The Court **DIRECTS** the Clerk to send a copy of this Order to Magistrate Judge Tinsley, counsel of record, and any unrepresented parties.

ENTER: November 25, 2013

  
\_\_\_\_\_  
ROBERT C. CHAMBERS, CHIEF JUDGE